

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

CALVIN DEE FINCH,

Petitioner,

v.

No. 15-CV-00843-KG-CG

TOM HAVEL,

Respondent.

ORDER

This matter is before the Court, *sua sponte* under Rules 1(b) and 4 of the Rules Governing Section 2254 Cases, on Petitioner Calvin Dee Finch's Petition for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 (Doc. 1) and Application to Proceed in District Court Without Prepaying Fees or Costs Pursuant to 28 U.S.C. § 1915 (Doc. 5). Because Petitioner paid the \$5.00 filing fee on October 22, 2015 (see Doc. 4), his Application to Proceed *In Forma Pauperis* will be denied as moot. The Court having determined that the Petition may not be subject to summary dismissal under Rules 1(b) and 4,

IT IS THEREFORE ORDERED that Petitioner's Application to Proceed in District Court Without Prepaying Fees or Costs Pursuant to 28 U.S.C. § 1915 (Doc. 5) is DENIED as moot;

IT IS FURTHER ORDERED that the Clerk is directed to forward copies of this Order and the Petition for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 (Doc. 1) to Respondent and the New Mexico Attorney General;

IT IS FURTHER ORDERED that Respondent answer said Petition within thirty (30)

days from the date of entry of this Order. Respondent's answer shall advise, but is not limited to, whether Petitioner has exhausted his state remedies as to the issues raised in the federal Petition. Respondent shall attach to its answer copies of any pleading pertinent to the issue of exhaustion which was filed by Petitioner in the sentencing court, the state district court, the state court of appeals, and the state supreme court, together with copies of all memoranda filed by both parties in support of or in response to those pleadings. Respondent shall also attach to the answer copies of all state court findings and conclusions, docketing statements and opinions issued in Petitioner's state court post-conviction or appellate proceedings. The answer must describe the procedural history of each claim that Respondent contends is unexhausted and identify the State procedures that are currently available to Petitioner.

A handwritten signature in black ink, appearing to read 'Carmen E. Garza', with a long horizontal line extending to the right.

THE HONORABLE CARMEN E. GARZA
UNITED STATES MAGISTRATE JUDGE